

# Notice of Allowability

## Application No.

10/616,344

## Examiner

SALVADOR E. RIVAS

## Applicant(s)

IWAMURA, RYUICHI

## Art Unit

2619

### -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to filing of application # 10/616344 on July 9, 2003.
2. ☒ The allowed claim(s) is/are 16, 7, 9 13-14, 17, 20-21, and 31-34 are renumbered 1-12, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                                 |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|  | 9. <input type="checkbox"/> Other _____.  |

/CHIRAG G SHAH/  
Supervisory Patent Examiner, Art Unit 2619

## DETAILED ACTION

### *Allowable Subject Matter*

1. **Claim 16** is allowed.

The following is an examiner's statement of reasons for allowance:

Regarding **claim 16**, the best prior art found during the examination of the present, **Gitlin et al. (US Patent # 6,064,662)** in view of **Lynch et al. (US Patent Application Publication # 2004/0184427 A1)**, fails to teach "... wherein a number of unused carriers allocated to the control stream of data is less than a specified maximum, and wherein the specified maximum comprises approximately 10% of available carriers, ..."

**Claims 7, 9, 13-14, 17, 20-21 and 31** are also allowed by virtue of their dependency on **claim 16**.

- Claim 32** is allowed.

Regarding **claim 32**, the best prior art found during the examination of the present, **Gitlin et al. (US Patent # 6,064,662)** in view of **Lynch et al. (US Patent Application Publication # 2004/0184427 A1)**, fails to teach "...and wherein the tone map designates that the first and second receivers receive the single data stream using merged time slots, and wherein the single stream of data comprises audio/video data; wherein a number of unused carriers allocated to the control stream of data is less than a specified maximum, and wherein the specified maximum comprises approximately 10% of available carriers, ..."

**Claims 33-34** are also allowed by virtue of their dependency on **claim 32**.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

2. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or early communications from the Examiner should be directed to Salvador E. Rivas whose telephone number is (571) 270-1784. The examiner can normally be reached on Monday-Friday from 7:00AM to 3:30PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Chirag G. Shah can be reached on (571) 272- 3144. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

*Salvador E. Rivas*  
S.E.R./ser

July 18, 2008

/Chirag G Shah/  
Supervisory Patent Examiner, Art Unit 2619